

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA**

ANDREW AVILA,

Plaintiff,

v.

FELDER, *et al.*,

Defendants.

Case No. 1:21-cv-01510-JLT-BAM (PC)

**ORDER GRANTING IN PART PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME TO  
FILE SECOND AMENDED COMPLAINT**

(ECF No. 30)

**THIRTY (30) DAY DEADLINE**

Plaintiff Andrew Avila ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On January 23, 2025, the Court directed Plaintiff to file a second amended complaint within thirty days. (ECF No. 29.) Currently before the Court is Plaintiff's February 18, 2025 motion for an extension of 120 days (or from February 23, 2025 to May 23, 2025) to file the second amended complaint. (ECF No. 30.) Plaintiff states that there is good cause for the extension because he struggles to see, he is untrained in the law, and he is incarcerated with limited access to legal resources. (*Id.*)

Having considered the request, the Court finds good cause to grant, in part, the requested extension of time. Fed. R. Civ. P. 6(b). However, the Court finds that an extension of thirty days, rather than 120 days, is reasonable under the circumstances.

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Plaintiff is reminded that his second amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what each named defendant did that led to the deprivation of Plaintiff's constitutional rights, *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). Although accepted as true, the “[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level . . . .” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted).

Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated claims in his first amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints).

Finally, Plaintiff is advised that an amended complaint supersedes the original complaint. *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended complaint must be “complete in itself without reference to the prior or superseded pleading.” Local Rule 220.

Accordingly, it is HEREBY ORDERED that:

1. Plaintiff's motion for extension of time, (ECF No. 30), is GRANTED IN PART;
2. The Clerk's Office shall send Plaintiff a complaint form;
3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a second amended complaint, or file a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii); and
4. **If Plaintiff fails to file a second amended complaint in compliance with this order, the Court will recommend dismissal of this action, with prejudice, for failure to obey a court order and for failure to state a claim.**

IT IS SO ORDERED.

Dated: February 19, 2025

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE